

QUARTERLY REPORT NUMBER FOURTEEN DEMOCRACY AND GOVERNANCE: ELECTIONS & POLITICAL PROCESSES IQC

Submitted to:

U.S. Agency for International Development
Under Contract No. AEP-I-00-00-00008-00 (CLIN 003)



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Submitted by:

Development Associates, Inc.
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January 2004

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January 29, 2004

Mr. Roberto Figueredo
Office of Democracy and Governance (DCHA/DG)
Room 3.10-051 Reagan Building
Agency for International Development
Washington, D.C. 20523-3100


Dear Mr. Figueredo:

The Democracy and Governance – Elections and Political Processes IQC (CLIN 003) that Development Associates currently is implementing for USAID, stipulates that we submit a quarterly Performance Monitoring Report.

Development Associates is providing you as our COTR with the required copy of our report covering the quarter just completed. We believe this report meets our responsibility under Section G.9 (a) of the contract. A copy of this report is also being sent to our CTO in USAID/Ukraine, in compliance with Part I.H.4 of Task Order 800.

If you have any questions or comments about this submission, please be in touch.

Sincerely,



George F. Jones
Director
Democracy and Governance Programs

Cc: Robert Samuel Taylor, USAID/M/OP/G/DGHCA
Oleksandr Piskun, USAID (email: opiskun@usaid.gov)

Enclosure: As stated

QUARTERLY REPORT (OCTOBER 1 – DECEMBER 31, 2003) ON THE DEMOCRACY AND GOVERNANCE – ELECTIONS AND POLITICAL PROCESSES IQC (CLIN 003) –AEP I-00-00-00008-00

I. BASIC DATA ON THE TASK ORDERS

- **Ukraine/Elections and Political Processes Work.** *Contract No. OUT-AEP-I-00-00-00008-00, Task Order 800, Period of Performance: 09/27/2000 - 11/30/03, Amount: \$2,275,000.*

Through several contracts and grants USAID/Ukraine has provided expert advice, professional assistance and educational experiences on the administration of elections to Ukrainian public officials and CSOs. Although substantial progress had occurred, the Mission decided to undertake a follow-up activity through the Elections and Political Processes IQC (CLIN 003). The activity has three main objectives:

- First, to improve the legal framework in order to more effectively ensure open and competitive elections at every level of government;
- Second, to increase the professionalism, competence, and independence of election officials and poll-workers; and
- Third, to increase the competence of Ukrainian civic organizations to monitor and advance adherence to international standards for free and fair elections, for transparent elections procedures, and for public access to the information necessary for an informed electoral choice.

Working with our subcontractor/partners, the Institute for Democracy in Eastern Europe (IDEE) and Mendez-England & Associates, Development Associates is providing a team of long and short-term advisors to this Elections and Political Processes project (DA). Activities include facilitation of seminars and working groups, provision of reference resources, training of trainers and the provision of small grants to Ukrainian civic organizations. The outcome will be increased and more effective citizen participation in political decision-making in Ukraine.

Client References: Oleksandr Piskun, Cognizant Technical Officer, Office of Democratic and Social Transition, e-mail: opiskun@usaid.gov; Donella Russell, Contract Officer, e-mail: drussell@usaid.gov, USAID/Kiev. Phone: (380-44) 462-5678, fax (380-44) 462-5834.

- ▶ **Nepal/Assessment of USAID Electoral Support Activities and Strategy Design.**
Contract No. AEP-I-00-00-00008-00, Task Order No. 802, Period of Performance: 10/22/03 - 12/1/03, Amount: \$31,319.

During the period 1999-2003, USAID/Nepal undertook a series of activities aimed at strengthening the electoral process in Nepal. These included efforts at voter education, increased participation of women in the political process, and civic education. These efforts were made during a period of considerable political unrest in the country. In 2003 the Mission let a contract to Development Associates under our Elections and Political Processes IQC to undertake an assessment of past and present electoral support activities in Nepal and to design a strategy and program for future strengthening of the electoral system. In particular, we proposed specific activities to ensure that information reached voters at the grassroots level and encouraged their participation in the electoral process. Working with USAID staff, our Team Leader, a Nepali-speaking expert, reviewed documents, interviewed key informants and conducted site visits in several regions of Nepal. The results of the Development Associates mission was an enhanced strategy for USAID engagement in electoral processes, including more sharply defined objectives and prioritized activities.

The Client Reference: Bishnu Adhikari, Cognizant Technical Officer, telephone: (977-1) 427-0144. E-mail: badhikari@usaid.gov. James C. Athanas, Contracting Officer. Telephone: (504) 236-9320. E-mail: jathanas@usaid.gov.

II. REPORTING SUMMARY

UKRAINE

A. ACTIVITIES CARRIED OUT AND PROGRESS MADE

Activity One: Improve the Legal Framework, So That It More Effectively Ensures Open and Competitive Elections at Every Level

Parliament Roundtable on Election Law Violations Liability

Development Associates, in collaboration with the Committee on State Building and Local Self Government of the Ukrainian Parliament (Verkhovna Rada), the Election Law Institute and the Association of People's Deputies of Ukraine, held a parliamentary roundtable on November 19. The event, attended by close to 50 legislative staff, members of the Central Elections Commission (CEC), election experts and MPs, featured an in-depth discussion of filing, litigating and adjudicating election law violations in the Ukrainian legal context, as well as a first-hand and very helpful briefing on the Georgia parliamentary election held just days before, from MP Serhii Shevchuk, of the pro-presidential People's Democratic Party.

Mr. Shevchuk spoke at length about his election observation and the extent to which blatant violations and poorly organized voter lists geometrically lowered public confidence in the election and its preliminary results. The message conveyed was clear: electoral process participants must not only be skilled at dealing with violations promptly when they occur, but

also at working to prevent these violations and to organize the election in such a way as to build rather than deplete voter trust.

At the end of this event a brief ceremony was held at which CEC Member Vasyl Spivak presented Merit Citations to Deputy Chief of Party (DCOP) Dr. Volodymyr Kovtunets, and to DA Activity Managers Oleksandr Barabash and Oleksandr Vorobyov for their particular contribution to improving the legal framework governing Ukrainian elections. COP Yarema Bachynsky thanked Mr. Spivak and the CEC, as well as our parliamentary and other partners and supporters, for their steadfast assistance and cooperation during the three years of the project, which concluded 11 days later.

Activity Two: Increase Professionalism, Competence and Independence of Ukrainian Election Officials and Poll-workers

Judicial Seminar in Kharkiv

A seminar for judges was held in Kharkiv on November 21. The event was co-organized by the Kharkiv Oblast Court of Appeal (which also provided excellent facilities), the Institute of Applied Humanitarian Research, and Development Associates.

A total of 36 judges participated in the event, including 15 judges of the Court of Appeal and 21 judges of local courts from this major eastern Ukrainian industrial center with nearly 2 million people. The Deputy Head of the Civil Chamber of the Court of Appeal, Dmytro Luspenyk, and IAHR Chairman Professor Mykhailo Buromenskyi co-chaired the event.

Presentations were made by:

- ▶ Judge Luspenyk;
- ▶ Dr. Viktor Kolisnyk, Chief of Department of the Academy of Legal Societies of Ukraine and Associate Professor of the National Law Academy of Ukraine;
- ▶ Associate Professor Pavlo Liubchenko, NLAU;
- ▶ Associate Professor Fedir Venislavskiy, NLAU;
- ▶ Associate Professor Oleksandr Serdiuk, NLAU;
- ▶ Serhii Kalchenko, DEVELOPMENT ASSOCIATES Activity Manager.

The following materials were distributed to the participants:

- ▶ A comparative analysis of the case law of the European Court of Human Rights and of Ukrainian courts, developed by the IAHR;
- ▶ An analysis of the case law on parliamentary elections developed by DA;
- ▶ An analysis of the case law on local elections and on procedures for determining election law violations, developed by DA;
- ▶ An analysis of the case law on appealing the results of an election, developed by DA;
- ▶ A compendium of court decisions on local elections, collected and published by DA;
- ▶ Copies of the Draft Civil Procedure Code;
- ▶ Copies of the Draft Administrative Procedure Code.

While some participants were reticent to express any views on the significant and inexplicable variation in court practice in the handling of election cases throughout Ukraine, especially in local elections, others openly questioned their colleagues' seeming readiness to knuckle under to pressure from local and other officials. The underlying message of this event was that sticking to the letter of the law is generally safer, from both a legal and practical (professional) viewpoint than flagrantly violating it, even at the request of very important people.

Activity Three: Increase Capacity of Ukrainian CSOs to Monitor and Advance Transparent Election Procedures and Increase Public Access to Electoral Information

A final, informal, review of DA's recently concluded small grant programs for Ukrainian NGOs was conducted by Activity Manager Serhii Kalchenko with input from Chief of Party Yarema Bachynsky. No major CSO strengthening activities were undertaken in these two final months of the project.

Other activities

DCOP Dr. Volodymyr Kovtunets and COP Yarema Bachynsky conducted two high level briefings on the political situation, constitutional reform efforts, and key legislative issues relating to the 2004 Presidential election. One briefing was held for the USAID/Kyiv Front Office, the other for U.S. Ambassador John Herbst and his staff.

Election Updates #66 and 67 were circulated by DA's Kyiv office and posted to our website, www.vybory.com. Update #66, "Parliamentary Election Bills Fail to Pass Verkhovna Rada," was circulated on October 22 and #67, "Residence and Location Provisions of Local Election Registration Procedures Ruled Unconstitutional," was posted on November 10.

Full project demobilization was completed in November, including distribution of all non-expendable property (NXP) purchased with USAID funds, in accordance with the previously approved Property Disposition Plan. Three leading Ukrainian NGOs with long records of cooperation with DA received NXP: the Election Law Institute; the Institute of Politics; and the Association of People's Deputies of Ukraine.

DA's office in Kyiv was closed at the end of November, as directed by USAID; our staff were terminated; and operational and logistical support contracts were phased out. However, two weeks later, following award of the Cooperative Agreement for Strengthening Election Administration in Ukraine, on December 15, 2003, the office was re-opened and the entire staff was re-hired. The vybory.com website was maintained and has been updated.

B. PERSONNEL CHANGES

None during this period.

C. BUDGET CHANGES

On September 2, Development Associates requested a No-Cost Extension of the project for two months, extending its original termination date of September 30 to November 30, 2003. The

extension was granted on September 29. The final two months of the project were successfully carried out within the parameters of the NCE.

D. UNRESOLVED ISSUES OR CONSTRAINTS

None.

NEPAL

DA conducted a brief collaborative assessment of USAID/Nepal's elections and political processes (EPP) program between 22 October and 13 November 2003. The assessment team concluded that, despite the civil and political crisis gripping this beleaguered Himalayan nation, there is a sound basis for new initiatives in elections-related programming (ERP), particularly support to the Nepalese Election Commission (EC) and the political parties in selected areas. Moreover, there are opportunities to expand and build new and expanded ERP on prior USAID SO1 and SO3 investments.

The assessment team, composed of Development Associates' Team Leader, Dr. Malcolm Odell, USAID/Washington D&G Advisor, Dr. April Hahn, and USAID/Nepal D&G Officer, Bishnu Prasad Adhikari, worked together in gathering assessment data, conducting group and individual interviews, and drafting a collaborative draft report which was reviewed by USAID/Nepal and Embassy staff prior to the consultants' departure from Nepal. While Development Associates takes full responsibility for the report, it should be seen as a team effort that combines the insights and experience of all team members, including USAID/Nepal.

While constrained by security and time considerations which condensed what was originally conceived as a 6-week effort into three weeks, the Team was able to visit three district centers in the Terai, conduct over 100 interviews, and hold nine focus-group discussions with cross-sections of government, party, civil society, media, and grass-roots NGO activists. During the final week of the mission, the Team also hosted a 'Thought Leaders Forum' using the appreciate inquiry method, which was also used in focus groups convening national leaders from across EPP sectors. These meetings were particularly successful in distilling lessons learned, defining the scope for positive action to be taken in the future, and eliciting commitments from participants on steps they are ready to take now for the initiation of constructive change. Research also included reviewing existing documents and building upon the wealth of knowledge of the USAID/ Kathmandu team that works on Democracy and Governance (DG) issues. While acknowledging field research and data limitations, these discussions generated an encouraging degree of consensus among diverse groups around critical EPP and ERP issues and personal commitments among the players to move forward to implement positive change, including initial steps actually undertaken before the Team left Nepal.

Regarding current USAID elections-related programming the Team concluded that current and past initiatives are generally sound and on track, addressing clear needs and interests articulated by government, national political parties, and civil society. These efforts, however, are small in scale, largely in the nature of pilot projects. The Team found broad agreement that these should be enhanced by expansion into larger scale initiatives to reach all districts and sectors of society, particularly at the grassroots, to build broad-based demand for positive reform and

implementation of free and fair elections, transparency, and accountability in government, the parties, and civil society.

The Team also found a broad consensus around the need and potential for, and strong collective commitment to, the immediate resumption of peace initiatives at all levels of society. Participants in district focus groups and the Thought Leaders' Forum indicated this as a top priority, made personal commitments to help make it happen, and encouraged USAID to support ongoing policy dialogue as a key component in future EPP programming. Specific recommendations emerging from these discussions, and endorsed by the Team, include:

- ▶ Initiation of peace-building dialogues at all levels of society, including the grassroots
- ▶ The need and interest among political parties to continue to work together to resolve the constitutional and the Maoist crises and enhance the democratic process within parties
- ▶ The opening of discussions around constitutional reform, including the electoral framework and definition of citizenship
- ▶ The possibility and merits of new elections, once some measure of peace and security is assured — especially within the context of a coalition government and agreements on basic reforms
- ▶ Specifically, the Team noted the need for and considerable interest among diverse voices in promoting:
 - international mediation to resolve current crisis
 - conflict resolution and consensus-building
 - internal party reform, transparency, and democratization
 - parties to become more representative and accountable at all levels
 - voter, civic and conflict education and awareness-building at all levels
 - increased roles for civil society in advocating for EPP-related reforms and monitoring, at all levels, including need for coalition-building among civil society institutions
 - participation of youth, women, and marginalized groups where the potential for positive action appears especially promising
 - Election Commission (EC) efforts at strategic planning for institution-building, including:
 - decentralization and devolution,
 - voter identification/registration
 - planning and support for free and fair elections,
 - security
 - domestic and international observers/monitors
- ▶ Areas where USAID program support may be particularly effective include activities in support of proposed USAID/EPP objectives to
 - Mitigate conflict
 - Foster demand for and rebuild consensus on the democratic rules of the game
 - Promote greater accountability in the EPP sector

USAID inputs are envisioned over a flexible four-phase process, each phase conditional on circumstances and scenarios that may develop over time. These are summarized as follows:

Phase 1: What can we do now within the context of these objectives?

- ▶ Promote activities to convene political parties to continue visioning and consensus-building dialogues among themselves, civil society, government, and the Monarchy
 - Support EPP initiatives arising from these dialogues
- ▶ Build upon and enhance demand and action plans for restoring the democratic process, including:
 - Increase voter, civic and conflict education and awareness-building at all levels, including radio, television, and grassroots programs through existing community groups
 - Expand national networks; and promote visioning and conflict mitigation dialogues to reach the grassroots level
 - Support civil society coalition-building for advocacy and monitoring
 - Develop and support specific programs for the participation of youth, women, and marginalized groups
 - Enhance linkages among these initiatives, political parties, and government
- ▶ Support Election Commission strategic planning for institution-building and decentralization and devolution, including:
 - Planning and support for free and fair elections,
 - Ensuring necessary security, and
 - Domestic and international observation/monitoring
- ▶ Prepare and plan for different scenarios emerging as time progresses, for example:

Phase 2: Options in alternative scenarios

Election is called

Goals/Objectives of EPP program:

- ▶ Prevention/mitigation of conflict—promotion of peace-building initiatives
- ▶ Prevention of government and party manipulation of elections

Agreement on constitutional reform

- ▶ Facilitation/encouragement of visioning and consensus-building policy dialogues
- ▶ Provision of appropriate support to any policy dialogues

Reconstitution of Parliament and/or coalition government

- ▶ Assist as appropriate in creation of an action plan to move forward to address the current crises
- ▶ Promote citizen and civil society input into development and monitoring of the action plan

No movement forward on elections, reforms, Parliament, and/or coalition government

- ▶ Build and deepen constituencies for reform and change among all sectors of society, youth, women, and marginalized groups and the international community
- ▶ Continue to support all relevant Phase 1 initiatives

Phase 3: An election is conducted

Goals/Objectives of EPP program:

- ▶ Develop and solidify consensus and address issues that are in question
 - Lack of accountability, poor governance, corruption, lack of real competition, and exclusion
- ▶ Build constituencies for reform around the above issues
- ▶ Continue to support all relevant Phase 1 initiatives

Phase 4: Learning from Phases 1-3

Focus on political party work and ongoing assessments to determine whether parties are committed to reform, responses to Phase 1-3 initiatives to promote governance reform and democratization, constituency outreach, and anti-corruption initiatives; evaluate patron-client networks and role for USAID in further strengthening civil society and working with any new parliamentary party that may emerge.

Additional recommended activities beyond the scope of this assessment but necessary for the effective implementation of these EPP objectives:

- ▶ Donor dialogue to support international mediation to resolve current crisis
- ▶ Donor/USAID action to address root-causes of the conflict and governance crisis especially:
 - Extreme and continuing levels of poverty and illiteracy
 - Inequitable structure of society and social systems
 - Deficiencies of Rule of Law and prevalence of impunity
 - Ineffective governing institutions

The full DA team report elaborates on these findings, conclusions, and recommendations, and provides a brief outline of specific activities that USAID may wish to consider planning and implementing. The first section of the report outlines the country context and particular nature of the political crisis in which Nepal finds itself. The second section summarizes the objectives and purpose of USAID's elections-related programming. The third part of the report outlines the objectives and purpose of the mission, along with the methodology used. In section four, current USAID programs and results are summarized, along with relevant findings from interviews and meetings. These current activities are briefly assessed in section five, specifically addressing questions put to the Team by the Mission, and supported by findings from interviews and discussions. Section 7 provides Team recommendations for future USAID support, around questions posed by USAID/Nepal. Section 8 outlines elements of a proposed strategy and potential programs and activities for continued support to elections-related initiatives across Nepal, outlining these in terms of four phases and possible scenarios that might emerge over the near- and longer-term. A final section summarizes the opportunities for positive USAID participation within a context of crisis, indicating that now, perhaps more than ever, the potential exists for a powerful and productive partnership between USAID and the voices for effective democracy within Nepal.

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IV. RESULTS FROM COMPLETED TASK ORDERS

See Part II, above.

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